

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 873 – SB 1211

January 28, 2016

SUMMARY OF ORIGINAL BILL: Repeals a Class A misdemeanor for knowingly possessing or casually exchanging Schedule VI controlled substances (marijuana and tetrahydrocannabinols) except for non-leafy, resinous tetrahydrocannabinol (hashish).

Repeals a Class E felony for distributing marijuana less than one-half ounce to a minor.

Repeals a Class A misdemeanor for distributing marijuana less than one-half ounce.

Creates a Class C misdemeanor punishable by \$100 fine only for possessing, casually exchanging, or distributing a Schedule VI controlled substance (marijuana and tetrahydrocannabinols) other than a non-leafy, resinous tetrahydrocannabinol (hashish).

Increases from one-half ounce to one ounce the amount of marijuana that someone can manufacture, deliver, sell, or possess.

Increases from two to three the number of prior convictions under Tenn. Code Ann. § 39-17-418 one must have to be prosecuted for a Class E felony.

Requires anyone convicted of possessing, casually exchanging, or distributing a controlled substance or a Schedule VI controlled substance over one ounce to attend a drug offender school for which the offender shall pay the fee.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures – \$1,765,600/Incarceration*

SUMMARY OF AMENDMENT (011684): Deletes all language after the enacting clause. Removes the enhanced felony penalty for third and subsequent convictions for simple possession or casual exchange if the instant violation and prior convictions involve marijuana.

Reduces the fine from \$1,000 to \$750 for third and subsequent convictions for simple possession or casual exchange of marijuana.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Expenditures – \$702,100/Incarceration*

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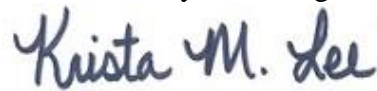
Assumptions for the bill as amended:

- Under current law, a third or subsequent offense for possession of marijuana under one-half ounce is punished as a Class E felony. The amended bill would prohibit any conviction—whether the first or tenth—from being enhanced to a Class E felony.
- Statistics from the Department of Correction (DOC) show a 10-year average of 65.1 admissions per year for a third or subsequent possession violation. It is assumed that one-third (33.33%) are marijuana-related offenses.
- The amended bill will result in 22 admissions (65.1×0.3333) being charged as Class A misdemeanors punishable by fine rather than being charged as Class E felonies.
- Data from the DOC shows the average time served for third or subsequent possession violations is 1.29 years (471.17 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2016 is \$67.73.
- The amended bill will decrease state incarceration costs by \$702,071.57 (22 admissions x 471.17 days x \$67.73).
- The amended bill will also decrease the fine for third and subsequent convictions for simple possession or casual exchange of marijuana from \$1,000 to \$750.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant decrease in revenue as a result of reducing the mandatory minimum fine for this offense.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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